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all others similarly situated,

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UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

VERONICA GUTIERREZ, ERIN  
WALKER, and WILLIAM SMITH, as  
individuals, and on behalf of all others  
similarly situated,

Plaintiffs,

v.

WELLS FARGO & COMPANY; WELLS  
FARGO BANK, N.A.; and DOES 1 through  
125,

Defendants.

Civil Case No.: C-07-5923 WHA (JCSx)

CLASS ACTION

**STIPULATION RE EXPERT  
DISCOVERY AND ~~PROPOSED~~  
ORDER**

Hon. William H. Alsup

Complaint filed: November 21, 2007

**STIPULATION**

WHEREAS, the parties in this action, subject to the Court's approval, wish to adopt certain procedures that will apply to expert disclosures and discovery in this case; and

WHEREAS, the provisions on expert discovery in Paragraph 22 of the Supplemental Order to Order Setting Initial Case Management Conference in Civil Cases Before Judge Alsup and Paragraph 4 of the Second Amended Case Management Order (Dkt. 148) authorize the parties to vary certain of the requirements set out in those provisions, and the parties wish to adopt some such variations in those requirements;

The parties accordingly STIPULATE as follows:

1. In addition to the expert reports and related information required to be provided under Fed. R. Civ. P. 26(a)(2), each party will voluntarily produce, at the same time and without the need for separate discovery requests, copies of all materials – including workpapers, algorithms, data compilations, and other materials reflecting and illustrating underlying analyses – that each of their expert witnesses has relied upon in forming or explaining his or her opinions. Deposition transcripts from this case and documents that have previously been produced in the case need not be produced again if they are specifically identified by bates numbers (or, in the case of depositions, by deponent).

2. The following items will not be produced by the parties or their expert witnesses:

- Notes, emails, and other correspondence, except if and to the extent such documents constitute or reflect a source of facts the expert has relied upon to form or explain his or her opinions. (Thus, for example, if an expert's source for a particular fact that she relies upon is an interview with a third party, her notes of that interview must be produced.)
- Drafts of expert reports.
- Documents and data reflecting "computer runs," calculations, and other analyses that the expert witness does not rely upon and as to which no testimony will be provided.

3. The time to exchange any illustrative animations, diagrams, charts, and models that may be used in the direct examination of an expert witness at trial is extended until two days before the scheduled deposition of the expert witness. However, this extension applies

1 only to materials that merely illustrate information that is fully disclosed and explained in the  
2 expert's report. The parties will continue to meet and confer on this subject and may agree on  
3 further variations of this deadline in the future.

4 4. Along with their Rule 26(a)(2) disclosures, the parties will provide  
5 alternative dates when each expert witness would be available for deposition (i) before the date  
6 that the other party's responsive or reply expert report would be due and (ii) during the two-  
7 week period between service of the final expert report and the close of expert discovery. The  
8 opposing party will then select which date it wishes to depose each expert witness.

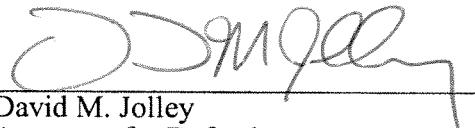
9 5. All expert witnesses will be made available for deposition in San  
10 Francisco, California.

11 6. Nothing in this stipulation will limit in any way the scope of permissible  
12 questioning during an expert's deposition.

13  
14 **IT IS SO STIPULATED.**


15  
16 DATED: <sup>February 21</sup> ~~January~~ \_\_, 2009

COVINGTON & BURLING LLP

17  
18 By:   
19 David M. Jolley  
Attorneys for Defendant

20  
21 DATED: January <sup>30</sup> \_\_, 2009

McCUNE & WRIGHT, LLP

22  
23 By:   
24 Richard D. McCune  
Attorneys for Plaintiffs

**ORDER**

**IT IS SO ORDERED.**

DATED: February 3, 2009

